IN THE HIGH COURT OF JUDICATURE AT BOMBAY
A.S.
Writ Petition No.7763 of 2005

Hareshwar M Patil and ors....Petitioners
vs
Hariram P Patil and ors...Respondents

Mrs Anjali Helekar for petitioners

Mr K M Mody i/b S Pathak & co for respondent nos l to l0

CORAM: S.U.KAMDAR J.

Dated 30.ll.2005

P.C:

l The present petition challenges the impugned order dated 27.9.2005 in Suit No.3674 of l982. By the impugned order petitioners have been refused to permit cross examine the witnesses of the plaintiffs on the ground that the petitioners have no adverse interest in the suit property. The learned counsel for the respondent nos.l to l0 (original plaintiffs) has contended that the order passed by the trial court is correct and just and the petitioners are not entitled to examine witnesses of the plaintiffs. He relied upon a judgment of the Gujarat High Court in the case of Hussens Hasanali Pulavwala vs. Sabbirbhai Hasanali Pulavwala and ors, AIR l98l Gujarat l90. The aforesaid judgement, in my opinion, has no application to the facts of the present case. In

that the persons who were seeking cross examination were in fact formal parties and were supporting the plaintiffs' case. That is not the case in the present case. In my opinion a person once is a defendant then he is entitled to cross examine each and every witness which are produced by the parties and his right of cross examination cannot be deprived in such manner. In the aforesaid view of the matter, order passed by the City Civil Court dated 27.9.2005 is quashed and set aside. The trial court is directed to permit the petitioners to cross examine the P W l and proceed with the matter according to law.

. Petition is disposed of accordingly with no order as to costs.